

In re) Fair Hearing No. 15,546
)
Appeal of)

The petitioners appeal decisions by the Department of Social Welfare terminating their eligibility for the VHAP and VHAP Pharmacy program.

1. The petitioners are husband and wife and have no minor dependents. The husband is disabled and has unearned income from the Social Security program of \$641.80 per month and earned income from a part-time job of \$438 per month. The wife lost her job of ten years and was receiving unemployment compensation of \$743.90 per month. She recently started working and earns \$1,032.00 per month as a hotel desk clerk.

2. The petitioners were notified that their eligibility for VHAP coverage (VHAP-Pharmacy for the husband, and regular VHAP for the wife) would close on July 3, 1998, because the wife's unemployment benefits had caused them to become over income for benefits.

3. The Department calculated the petitioners' eligibility by adding together the three types of income listed in paragraph one and subjecting the total, \$1,823.70, to a \$90 deduction for the husband's earned income for a

total countable income of \$1,733.70. That figure was compared to the total maximum income for the various VHAP programs (\$1,357.00 for VHAP Pharmacy and VHAP; \$1,583.00 for V-Script) and was found to be excessive.

4. The petitioners agree that the figures used by the Department are correct but feel that they should have gotten special consideration for eligibility due to their very high medical, particularly pharmacy, bills. The husband has a Medicare premium of \$43.80 each month deducted from his Social Security and must take medications each month for control of his seizures (following removal of a brain tumor) totalling \$644.32. The wife needs asthma medications which total about \$200 per month but she usually cannot afford to buy them. Their other household expenses--including \$500 per month for rent, \$150 for food, \$100 electric, \$40 for telephone, a \$218 payment for the car the wife uses for work, and \$110 per month for credit card and personal loans--consumes most of their take-home income, leaving little to pay for the husband's medications.

ORDER

The decision of the Department is affirmed.

REASONS

All three of the VHAP (Vermont Health Access Program) programs at issue here, require that all earned wages, social security benefits and unemployment compensation of the disabled person and his spouse be counted in determining eligibility. See W.A.M. § 3201.61 (VScript), W.A.M. § 3301.71 (VHAP Pharmacy) and W.A.M. § 4001.81 (VHAP). Under these regulations, the only deduction allowed in each program which is applicable to the petitioners' situation is a standard employment expense deduction of \$90 for each wage earner. No deductions are allowed under any program for excessive medical expenses.

The calculation performed by the Department in the petitioners' case which found a countable income of \$1,733.70 is correct. The regulations cut off eligibility for a two person assistance group in the VScript program at \$1,583.00 per month and in the VHAP Pharmacy and VHAP programs at \$1,357.00 per month. See Procedures Manual § 2420 B (3)A and B. As such, the petitioners were correctly determined to be ineligible and the Department's decision must be upheld. The petitioners were advised to apply for Medicaid which has a spend-down program which does take medical expenses into account in determining eligibility once a certain maximum is met and of the existence of the General Assistance program should they face a catastrophic

situation with regard to the husband's inability to obtain his needed medication.

#